

HOUSE BILL No. 1219

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; IC 20-5-4-8; IC 36-6-6-15.

Synopsis: Provisional tax bills and emergency borrowing. Permits the department of local government finance to adopt emergency rules. Changes the maximum amount of a temporary loan for school corporations and townships. Allows the governing board of a school corporation to determine that an emergency exists that requires extension of the maturity date of a temporary loan. Establishes temporary provisional property tax billing procedures.

Effective: Upon passage.

Kuzman, Ayres

January 8, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1219

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.120-2002,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking
4 action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.

9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107



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and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

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(22) After December 31, 2003, an emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.

(23) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(24) A rule of the department of local government finance adopted under IC 6-1.1-31-1(b) and designated by the commissioner of the department as an emergency rule.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but

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only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 20-5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Whenever the governing board of a school corporation finds and declares that an emergency exists for the borrowing of money with which to pay current expenses from a particular fund before the receipt of revenues from taxes levied or state tuition support distributions for such fund, the governing board may issue warrants in anticipation of the receipt of said revenues.

(b) The principal of these warrants shall be payable solely from the fund for which the taxes are levied or from the general fund in the case of anticipated state tuition support distributions. However, the interest on these warrants may be paid from the debt service fund, from the fund for which the taxes are levied, or the general fund in the case of anticipated state tuition support distributions.

(c) The amount of principal of temporary loans maturing on or before June 30 for any fund shall not exceed ~~eighty percent (80%) of the amount of taxes and state tuition support distributions estimated to be collected or received for and distributed to the fund at the June settlement:~~ **the highest cash flow deficit estimated by the governing body of the school corporation for that period plus five percent (5%) of the total approved budget for the fund for which the loan is made.**

(d) The amount of principal of temporary loans maturing after June 30, and on or before December 31, shall not exceed ~~eighty percent (80%) of the amount of taxes and state tuition support distributions estimated to be collected or received for and distributed to the fund at the December settlement:~~ **the highest cash flow deficit estimated by the governing body of the school corporation for that period plus**

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1 five percent (5%) of the total approved budget for the fund for
2 which the loan is made.

3 (e) If the governing board of a school corporation determines
4 that an emergency exists that requires an extension of the
5 prescribed maturity date for a temporary loan under this section,
6 the prescribed maturity date may be extended for not more than
7 six (6) months after the budget year for which the temporary loan
8 is made if the governing board does the following:

9 (1) Passes a resolution that contains:

10 (A) a statement determining that an emergency exists;

11 (B) a brief description of the grounds for the determination
12 that an emergency exists; and

13 (C) the date the loan will be repaid that is not more than
14 six (6) months after the budget year for which the
15 temporary loan is made.

16 (2) Immediately forwards the resolution to:

17 (A) the state board of accounts; and

18 (B) the department of local government finance.

19 (f) At each settlement, the amount of taxes and state tuition support
20 distributions estimated to be collected or received for and distributed
21 to the fund includes any allocations to the fund from the property tax
22 replacement fund.

23 (†) (g) The estimated amount of taxes and state tuition support
24 distributions to be collected or received and distributed shall be made
25 by the county auditor or the auditor's deputy. The warrants evidencing
26 any loan in anticipation of tax revenue or state tuition support
27 distributions shall not be delivered to the purchaser of the warrant nor
28 payment made on the warrant before January 1 of the year the loan is
29 to be repaid. However, the proceedings necessary to the loan may be
30 held and carried out before January 1 and before the approval. The loan
31 may be made even though a part of the last preceding June or
32 December settlement has not yet been received.

33 (†) (h) Proceedings for the issuance and sale of warrants for more
34 than one (1) fund may be combined, but separate warrants for each
35 fund shall be issued and each warrant shall state on its face the fund
36 from which its principal is payable. No action to contest the validity of
37 such warrants shall be brought later than fifteen (15) days from the first
38 publication of notice of sale.

39 (†) (i) No issue of tax or state tuition support anticipation warrants
40 shall be made if the aggregate of all these warrants exceed twenty
41 thousand dollars (\$20,000) until the issuance is advertised for sale, bids
42 received, and an award made by the governing board as required for the

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1 sale of bonds, except that the sale notice need not be published outside
2 of the county nor more than ten (10) days before the date of sale.

3 SECTION 3. IC 36-6-6-15 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If the
5 legislative body finds that an emergency requires the borrowing of
6 money to meet the township's current expenses, it may take out
7 temporary loans in an amount not ~~more than fifty percent (50%) of the~~
8 ~~total anticipated revenue for the remainder of the year in which the~~
9 ~~loans are taken out: to exceed the highest cash flow deficit estimated~~
10 **by the legislative body for the budget year for which the temporary**
11 **loan is made plus five percent (5%) of the total approved budget**
12 **for the fund for which the loan is made.**

13 (b) The legislative body must authorize the temporary loans by a
14 resolution:

- 15 (1) stating the nature of the consideration for the loans;
- 16 (2) stating the time the loans are payable;
- 17 (3) stating the place the loans are payable;
- 18 (4) stating a rate of interest;
- 19 (5) stating the anticipated revenues on which the loans are based
- 20 and out of which they are payable; and
- 21 (6) appropriating a sufficient amount of the anticipated revenues
- 22 on which the loans are based and out of which they are payable
- 23 for the payment of the loans.

24 (c) The loans must be evidenced by time warrants of the township
25 stating:

- 26 (1) the nature of the consideration;
- 27 (2) the time payable;
- 28 (3) the place payable; and
- 29 (4) the anticipated revenues on which they are based and out of
- 30 which they are payable.

31 SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) The definitions**
32 **in IC 6-1.1-1 apply throughout this SECTION.**

33 **(b) For purposes of this SECTION:**

- 34 (1) "provisional statement" refers to a provisional property
- 35 tax statement under subsection (c);
- 36 (2) "property taxes" include special assessments;
- 37 (3) "reconciling statement" refers to a reconciling property
- 38 tax statement under subsection (g); and
- 39 (4) "tax liability" includes liability for special assessments.

40 **(c) With respect to property taxes payable under IC 6-1.1 on**
41 **assessments determined for the 2002 assessment date, the county**
42 **treasurer may use provisional statements under this SECTION if**

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the county auditor fails to deliver the abstract to the county treasurer under IC 6-1.1-22-5 before March 16, 2003. Each provisional statement must:

(1) be in a form that resembles as much as possible the tax statement under IC 6-1.1-22-8;

(2) be based on:

(A) the tax liability payable in 2002 for the property for which the provisional statement is issued; or

(B) the tax liability as estimated by the county treasurer to account for property:

(i) was not subject to assessment for property taxes payable in 2002;

(ii) for which no tax liability was determined for property taxes payable in 2002; or

(iii) for which the amount determined under clause (A) is not representative of the actual tax liability estimated by the county treasurer for property taxes payable in 2003;

(3) indicate:

(A) the amount due on each installment as determined under subsection (d);

(B) that the provisional statement is based on the tax liability payable in 2002; and

(C) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and

(ii) will be credited against a reconciling statement; and

(4) include any other information the county treasurer requires.

(d) Property taxes billed on a provisional statement are due in two (2) equal installments on:

(1) June 15, 2003; and

(2) November 10, 2003.

(e) If provisional tax statements are used, IC 6-1.1-22-4 applies only as provided in subsection (f).

(f) As soon as possible after the receipt of the abstract referred to in subsection (c), the county treasurer shall:

(1) give the notice required by IC 6-1.1-22-4; and

(2) mail or transmit reconciling statements under subsection (g).

(g) Each reconciling statement must indicate:

(1) the actual property tax liability under IC 6-1.1 on the

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assessment determined for the 2002 assessment date for the property for which the reconciling statement is issued;

(2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than a date determined by the county treasurer that is not less than seventy-five (75) days after the date of the reconciling statement;

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1) by more than one hundred dollars (\$100), that the taxpayer may, subject to subsection (h):

(A) claim a refund of the excess under IC 6-1.1-26; or

(B) direct the county treasurer to apply the excess as a credit against the next succeeding property tax statement or statements; and

(5) if the amount under subdivision (2) exceeds the amount under subdivision (1) by one hundred dollars (\$100) or less, that the county treasurer will, subject to subsection (h), apply the excess as a credit against the next succeeding property tax statement or statements.

(h) No interest applies to:

(1) a refund or credit under subsection (g)(4); or

(2) a credit under subsection (g)(5).

(i) Taxpayers shall make all payments under this SECTION to the county treasurer. The board of county commissioners may authorize the county treasurer to open temporary offices to receive payments under this SECTION in municipalities in the county other than the county seat.

(j) The county treasurer may combine reconciling statements for property taxes payable under IC 6-1.1 on assessments determined for the 2002 assessment date with statements for property taxes payable under IC 6-1.1 on assessments determined for the 2003 assessment date.

(k) IC 6-1.1-15:

(1) does not apply to provisional statements; and

(2) applies to reconciling statements.

(l) Amounts attributable to collections from reconciling statements under subsection (g) mailed after October 15, 2003, are not counted in collection balances for calculation of a levy excess



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for taxes payable in 2004 under:

(1) IC 6-1.1-18.5-17; or

(2) IC 6-1.1-19-1.7.

(m) With respect to property taxes payable under IC 6-1.1 on assessments determined for the 2003 assessment date, the county treasurer may use provisional statements and reconciling statements under this SECTION if the county auditor fails to deliver the abstract to the county treasurer under IC 6-1.1-22-5 before March 16, 2004. The provisional statements and reconciling statements apply in the same manner as otherwise provided in this SECTION, except for the following:

(1) The provisional statement under subsection (c) is based on:

(A) tax liability; or

(B) estimated tax liability;

for property taxes payable in 2003.

(2) Property taxes billed on a provisional statement are due in two (2) equal installments on:

(A) May 10, 2004; and

(B) November 10, 2004.

(3) The reconciling statement under subsection (g) is based on property taxes payable in 2004.

(4) Amounts attributable to collections from reconciling statements under subsection (g) mailed after October 15, 2004, are not counted in collection balances for calculation of a levy excess for taxes payable in 2005.

(n) IC 6-1.1 applies to this SECTION to the extent IC 6-1.1 does not conflict with this SECTION.

(o) This SECTION expires January 1, 2006.

SECTION 5. An emergency is declared for this act.

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